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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,393	05/22/2001	Akitoshi Kojima	P-0105 S	8012
28752	7590	06/09/2006	EXAMINER	
LACKENBACH SIEGEL, LLP LACKENBACH SIEGEL BUILDING 1 CHASE ROAD SCARSDALE, NY 10583			SPOONER, LAMONT M	
			ART UNIT	PAPER NUMBER
			2626	

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/856,393	KOJIMA, AKITOSHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lamont M. Spooner	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 March 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3-7 and 9-14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-7 and 9-14 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 22 May 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3/27/06 have been fully considered but they are not persuasive.

In response to Applicant's arguments, "Thus, it is not believed that Rtischev et al. discloses "a database for storing a plurality of reference pronunciation data of a sentence of the same language and corresponding to a plurality of plurality of pronunciation fluency levels for the sentence." In fact, ...nowhere in the patent is the word "database" mentioned even once." the Examiner cannot concur. As evidenced in the previous rejection, Rtischev teaches a database for storing reference pronunciation data (C.7.lines 9, 10-his preselected script) of a sentence (ibid-his script as the sentence) of the same language (C.3.lines 25-28), and corresponding to a plurality of pronunciation fluency levels for the sentence (C.7.lines 6-25, his preselected script in correspondence with speech patterns), the database is his digital memory location, and captured information in the computer system, storing of the information (C.10.lines 50-56 and C.13.lines 37-60—"storing the digitized input speech in a digital memory...stored grammar models" and C.13.lines 37-49).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-7, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Rtischev et al.(Rtischev, US 5,634,086).

As per claims 1 and 7, Rtischev teaches a pronunciation judgment system comprising (C.5.lines 50, 51).

a database for storing reference pronunciation data (C.7.lines 9, 10-his preselected script, see also, C.10.lines 50-56, C.13.lines 36-49) of a sentence (ibid-his script as the sentence) of the same language (C.3.lines 25-28), and corresponding to a plurality of pronunciation fluency levels for the sentence (C.7.lines 6-25, his preselected script in correspondence with speech patterns, and pause indicators and exercise strictness level, interpreted as the pronunciation fluency levels for the sentence, wherein C.7.lines 14-21, his pause threshold, indicates a pronunciation fluency level of the preselected sentence, C.6.line 46-his tracking means affirming pronunciation level, C.7.lines 6, 7, his tracking process);

and a user operative member for selecting one of said plurality of pronunciation fluency levels (C.7.lines 45-49-his pause indicator threshold, and his adjusting by the user and function of level of strictness)

reference voice playback means for outputting a reference voice based on said reference pronunciation data of the sentence and corresponding to the selected pronunciation fluency level (see- ibid for selection, C.6.lines 45-53-his "No, the sentence is S(i). Please read from P(i)."...as the output, the output of the sentence interpreted as

the reference voice playback, see also, C.5.lines 31-46-his training script to a plurality of persons...indexed...and built network of speech models for preselected script).

similarity determination means for comparing a user pronunciation data input in correspondence to said reference voice and said reference pronunciation data corresponding to the selected pronunciation fluency level (C.6.lines 45, 46-his correctly as the similarity means..., his tracking operation-as explained above...also Fig. 4A1-step K-his pause and good words-indicates pronunciation fluency as explained above); and

means for informing a user of a result of a determination made by said similarity determination means (C.6.lines 36-41-his "okay").

As per claims 3 and 9, Rtischev further teaches said reference voice playback means outputs the reference voice based on said reference pronunciation data of the sentence and corresponding to the selected pronunciation fluency level until said similarity determination means detects agreement of both data (see claim 1 as pertaining to pronunciation level and reference discussion, C.6.lines 45-53-his "word not correctly"..."no the sentence is...", and "try again").

As per claims 4 and 10, claim 4 sets forth similar limitations of claims 1 and 3, (see claim 1, wherein the script as discussed in claim 1 is now interpreted to include a "plurality of sentences"), and is thus rejected for the same reasons and under the same rationale. Rtischev further teaches, said reference voice playback means includes a second user operative member for selecting one of the sentences and outputs the reference voice based on said reference pronunciation data of the selected sentence

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and corresponding to the selected pronunciation fluency level, until said similarity determination means detects agreement of both data (see claim 3 discussion, on similarity discussion as it is within the scope of the present claim, C.7.line 46-his variably adjusted...position in text...done by the user, interpreted as second user operative member for selecting one of the sentences, wherein the position in the text is interpreted to be the sentence, allowing the user to select "one of the sentences" ...).

As per claims 5 and 11, Rtischev further teaches means for displaying the sentence corresponding to the reference pronunciation data (C.4.lines 47, 48-his visual monitor, C.3. lines 4-6, see claim 1 for discussion of reference pronunciation data).

As per claims 6 and 12, Rtischev further teaches said informing means comprises means for displaying an agreement indicator indicating that the similarity determination means detects the agreement of both data (C.6.lines 39-41-his visual positive rejoinder, "okay").

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Rtischev.

As per claims 13 and 14, Rtischev teaches claim 4 and further teaches means for displaying some sentences (see script/sentences discussion in claim 4) and wherein

said informing means comprises means for displaying an agreement indicator indicating that the similarity determination means detects the agreement of both data (see claim 3 discussion, on similarity discussion as it is within the scope of the present claim, C.7.line 46-his variably adjusted...position in text...done by the user, interpreted as selecting one of the sentences, wherein the position in the text is interpreted to be the sentence, allowing the user to select "one of the sentences" ...), but lacks explicitly:

a selection indicator adjacent to the selected sentence. However, the Examiner takes official notice a selection indicator adjacent to the selected item was well known in the art at the time of the invention (ie blank bulleted indicators next to items to be selected, wherein upon selection, the bullets are filled in, indicating selection of that item, which could be a word, sentence phrase, etc.). Therefore, at the time of the invention, it would have been obvious to modify Ritschев with the selection indicator for his script (sentence). The motivation for doing so would have been to visually indicate what sentence that is being selected.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lamont M. Spooner whose telephone number is 571/272-7613. The examiner can normally be reached on 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571/272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RICHEMOND DORVIL  
SUPERVISORY PATENT EXAMINER

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6/8/06